IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO.8278 OF 2005

Imtiyaj Dilawar Tamboli : Applicant.

versus

The State of Maharashtra : Respondent.

Mr.U.R.Agandsurve for the applicant.

Mrs.S.D.Shinde, APP, for the State/Respondent.

CORAM : V.M.KANADE, J.

DATED : 13th January 2006.

ORAL ORDER

1. Heard learned counsel appearing on behalf of the applicant and learned APP appearing on behalf of the State/respondent.

2. This is an application for bail filed by the applicant who has been arrested in connection

with an offence which is registered vide C.R.No.175/2005 by Mohol Police Station, Solapur for the offences punishable under sections 302, 201 r/w 34 of the Indian Penal Code.

3. The prosecution case, in brief, is that deceased Shivaji and the applicant and others were on enmical terms with each other and, the deceased was taken in white Maruti car which was seen by two eye witnesses and he was murdered and his body was thrown in a canal. The learned counsel appearing for the applicant has submitted that there is no evidence against the present applicant and the only role which is attributed to him is that he was sitting in the Maruti car in which the deceased was taken. He submitted that the deceased was assaulted by one Laxman Mane with an axe and both the eye witnesses have particularly stated that the deceased was last seen in the company of the present applicant and other accused. He submitted that therefore offence under section 302 is not made out against the present applicant.

4. The learned APP appearing for the State/respondent, on the other hand, has

submitted that there are two eye witnesses who have stated that the deceased was forcibly taken in a Maruti car and the deceased was last seen in the company of the present applicant and the other accused. She further submitted that the axe by which the deceased was assaulted has been recovered at the instance of other accused. She also submitted that though the present applicant was seen in the car, the intention of the applicant was to murder the deceased and, therefore, the provisions of Section 34 of the Indian Penal Code are attracted.

5. In my view, this is not a fit case for grant of bail. The deceased was last seen in the company of the applicant when he was forcibly taken in Maruti Car and his dead body was dumped in the canal. There was recovery of axe at the instance of other accused. The application for bail is, therefore, rejected. Liberty is granted to the applicant to file another bail application again if the trial is not over within a period of one year.

[V.M.KANADE,J]